

RICHARD J. DOREN (SBN 124666)
rdoren@gibsondunn.com
TIMOTHY W. LOOSE (SBN 241037)
tloose@gibsondunn.com
MICHAEL J. HOLECEK (SBN 281034)
mholecek@gibsondunn.com
GIBSON, DUNN & CRUTCHER LLP
333 South Grand Avenue
Los Angeles, California 90071-3197
Telephone: (213) 229-7000
Facsimile: (213) 229-7520

Attorneys for Aetna Life Insurance Company,
Aetna Inc., Coventry Health Care, Inc., First
Health Life & Health Insurance Company, Mark
T. Bertolini, Karen S. Lynch, Natassia Kelly,
Billie Jo Glabicki, and Chelsea Jeffers

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

STEPHEN YAGMAN,

Plaintiff,

v.

NATASSIA KELLY, BILLIE JOE
GLABICKI, CHELSEA JEFFERS,
MARK T. BERTOLINI, KAREN S.
LYNCH (ROHAN), FIRST HEALTH
LIFE & HEALTH INSURANCE
COMPANY, AETNA, INC., AETNA
LIFE INSURANCE COMPANY,
COVENTRY HEALTH CARE, INC.,
and TEN DEFENDANTS, 1-10,

Defendants.

Case No. 2:17-cv-6022 MWF (PJWx)

The Hon. Michael W. Fitzgerald

**[PROPOSED] ORDER GRANTING
DEFENDANTS' MOTION TO DISMISS
FIRST AMENDED COMPLAINT**

*[Notice of Motion and Motion,
Supporting Memorandum of Points and
Authorities, and Declaration of Edward
Lee filed concurrently herewith]*

Complaint Filed: August 14, 2017

1 This matter is before the Court on Defendants Aetna Life Insurance Company,
 2 Aetna Inc., Coventry Health Care, Inc., First Health Life & Health Insurance
 3 Company, Mark T. Bertolini, Karen S. Lynch, Natassia Kelly, Billie Jo Glabicki, and
 4 Chelsea Jeffers (“Defendants”) Motion to Dismiss First Amended Complaint for (1)
 5 Lack of Personal Jurisdiction; (2) Insufficient Service of Process; (3) Failure to State a
 6 Claim; and, Alternatively, Motion to Strike.

7 Good cause appearing, IT IS HEREBY ORDERED that:

8 1. Defendants’ Motion is **GRANTED** on the grounds stated in Defendants’
 9 Motion.

10 2. Plaintiff has not established that this Court has general personal jurisdiction
 11 over Aetna Inc., Aetna Life Insurance Company, Coventry Health Care, Inc., Mark T.
 12 Bertolini, Karen S. Lynch, Natassia Kelly, Billie Jo Glabicki, and Chelsea Jeffers.
 13 These defendants are not at home in California, and Plaintiff has not demonstrated the
 14 minimum contacts with California that are required to subject them to general personal
 15 jurisdiction here. *See Goodyear Dunlop Tires Operations, S.A. v. Brown*, 131 S. Ct.
 16 2846 (2011).

17 3. Plaintiff has not established that this Court has specific personal jurisdiction
 18 over Aetna Inc., Aetna Life Insurance Company, Coventry Health Care, Inc., Mark T.
 19 Bertolini, Karen S. Lynch, Natassia Kelly, Billie Jo Glabicki, or Chelsea Jeffers.
 20 Exercising personal jurisdiction over these defendants under these circumstances
 21 would be unreasonable because they have not purposefully availed themselves of the
 22 privilege of conducting activities in California, and Plaintiff’s claims do not arise out
 23 of any conduct by these defendants that took place in California. *See Williams v.*
 24 *Yamaha Motor Co.*, 851 F.3d 1015 (9th Cir. 2017).

25 4. Plaintiff has not demonstrated proper service of process on any of the
 26 Defendants. Accordingly, the Court grants this Motion pursuant to Rule 12(b)(5).

27 5. Plaintiff fails to properly state any claims for relief. Instead of directing
 28 allegations to any specific defendants, he impermissibly relies on group pleading of

1 bare conclusions, unsupported by any factual allegations, which is insufficient under
2 either Rule 8(a) or 9(b).

3 6. This Court also strikes Plaintiff's class-action allegations in paragraphs 300-
4 308 of the First Amended Complaint and prayer for attorneys' fees (First Am. Compl.
5 at 19, prayer #5). As a *pro se* litigant, Plaintiff cannot represent anyone other than
6 himself, and he cannot recover any "attorneys' fees" purportedly incurred from the
7 self-representation.

8 7. This Court also strikes Plaintiff's prayer for punitive damages (First Am.
9 Compl. at 19, prayer #2) because the Complaint includes no factual allegations
10 suggesting that any defendant acted with fraud, malice, or oppression.

11 8. This Court also strikes Plaintiff's gratuitous references to defense counsel
12 and their firm (First Am. Compl. ¶¶ 235, 263) because these matters are immaterial,
13 impertinent, and scandalous under Rule 12(f).

14
15 **IT IS SO ORDERED.**

16
17 DATED: _____, 2018

18 The Honorable Michael W. Fitzgerald
19 UNITED STATES DISTRICT JUDGE
20
21
22
23
24
25
26
27
28